

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EUGENE CASTELLE,

Movant,

-against-

UNITED STATES OF AMERICA,

Respondent.

21-CV-4694 (AKH)

18-CR-0015-10 (AKH)

ORDER TO ANSWER, 28 U.S.C. § 2255

ALVIN K. HELLERSTEIN, United States District Judge:

The Court, having concluded that the motion brought under 28 U.S.C. § 2255 should not be summarily dismissed as being without merit, hereby ORDERS that:

The Clerk of Court shall electronically notify the Criminal Division of the U.S. Attorney's Office for the Southern District of New York that this order has been issued.

Defense counsel for Castelle, Gerald J. McMahon, shall respond to Castelle's assertions within 30 days from issuance of this order, under oath. Castelle's allegations regarding conversations with his counsel waive his privilege. *Mendivelso v. United States*, 507 F. Supp. 2d 331, 339 & n.3 (S.D.N.Y. 2007) ("The attorney-client privilege is implicitly waived when the defendant asserts a claim of ineffective assistance of counsel.").

Within sixty days of the date of this order, the U.S. Attorney's Office shall file an answer or other pleadings in response to the motion. Castelle shall have thirty days from the date on which Castelle is served with Respondent's answer to file a response. Absent further order, the motion will be considered fully submitted as of that date.

All further papers filed or submitted for filing must include the criminal docket number and will be docketed in the criminal case.

SO ORDERED.

Dated:

New York, New York
June 8, 2021

A handwritten signature in black ink, appearing to read "Alvin K. Hellerstein", written over a horizontal line.

ALVIN K. HELLERSTEIN
United States District Judge